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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,909	10/20/2000	Yasuyuki Ikeguchi	P107314-00013	7608

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EXAMINER
YENKE, BRIAN P

ART UNIT	PAPER NUMBER
2614	15

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/691,909	IKEGUCHI, YASUYUKI	
	Examiner	Art Unit	
	BRIAN P. YENKE	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *Amendment (27 May 04)*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto, JP-04-369189 in view applicant's admitted prior art (AAPA) and Moon, US 6,501,510.

In considering claims 1, 5 and 9,

a) the claimed providing a receiving section for digital television broadcasting...is met by *c) the claimed receiving and outputting*...is met by detection circuit 8 which detects frequency error in a data from the digital signal from tuner 3 and when the reception state is excellent a control circuit 9 allows a changeover 6 to select circuitry 5 in selecting the digital signal to be output (via output 7), otherwise when the reception is deteriorated (error rate exceeds a reference value) the control circuit 9 allows the changeover circuit 6 to select circuit 4 to output the analog signal.

However, Yamamoto does not explicitly recite (from the abstract), judging when the digital program is selected whether or not an analog program having the same contents is being broadcast.

Although, as disclosed by applicant's background the shift of offering digital broadcasting programs is by offering the same program in digital and analog (simulcasting), where some areas may only receive the analog (i.e. digital service not available), or some areas may not adequately receive the digital signal (behind a building), since digital signals vary in terms of reception/quality to their analog counterpart. Also, as disclosed by applicant the digital signal is of a higher video/audio quality than it's analog counterpart. Thus it is preferred to select the digital signal which is of higher quality when reception is adequate, than the analog signal as explained above.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify/utilize with Yamamoto, which discloses the error detection/selection of the preferred digital signal otherwise the selection of the analog counterpart, with AAPA by recognizing that the preferred digital signal is not always available or adequately receivable, and providing the user the analog version when the digital version is inadequate.

Currently systems as mandated by the FCC may broadcast digital signals along with their analog counterpart. Thus a receiver presently must determine whether a digital signal is available, if not then receiving the analog version (which is present until broadcasters are able to deliver digital only without an analog counterpart).

The examiner relies on Moon, which discloses that in the event a program is also transmitted in a digital format (where an analog version is always transmitted) and the digital format is receivable, the digital signal is the preferred/selected format, otherwise when a digital signal is not detected then receiving the analog version. Thus, in the alternative one could logically conclude that in the event digital signals do not always include an analog counterpart, the detection of whether an analog version is available as a second choice (digital 1st), would then be required.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Yamamoto and AAPA which discloses the reception of the same program in digital (if available) and analog version where the preferred format of digital is selected when the reception state is excellent otherwise displaying the analog version, with Moon by determining if other versions (analog) are also available, in the event the preferred (digital) version is unreceivable (due to error/transmission/location).

Regarding claims 2, 6 and 10,

However, neither Yamamoto, AAPA nor Moon disclose judging if the analog program is available based on channel map information included in additional information and sent as data relating to the digital broadcast.

As stated above in the rejection, currently broadcasters transmit analog signals which might also include digital signals. Yamamoto and Moon both disclose the preferred selection of a digital signal if receivable and reception is excellent as opposed to the traditional analog version.

It is also conventional to transmit channel map information as additional information in the digital broadcast relating to the corresponding analog channel.

Thus, the examiner takes "OFFICIAL NOTICE" regarding channel map information included and sent relating to the digital broadcast.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Yamamoto and Moon which disclose the disclose the preferred selection of a digital signal if receivable and reception is excellent as opposed to the traditional analog version, by judging whether an analog version is available via the received channel map information, in the event the digital signal was unreceivable (low quality) and then providing the user the alternative (analog version) of the desired program.

Regarding claims 3, 7 and 11,

However, neither Yamamoto, AAPA nor Moon disclose judging if the analog program is available based on channel map information previously stored in a storage device at time of shipment from a factory.

As stated above in the rejection, currently broadcasters transmit analog signals which might also include digital signals. Yamamoto and Moon both disclose the preferred selection of a digital signal if receivable and reception is excellent as opposed to the traditional analog version.

It is also conventional to have access to channel map information which is stored at time of shipment.

Thus, the examiner takes "OFFICIAL NOTICE" regarding channel map information stored in a TV.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Yamamoto and Moon which disclose the disclose the preferred selection of a digital signal if receivable and reception is excellent as opposed to the traditional analog version, by judging whether an analog version is available via the stored channel map information, in the event the digital signal was unreceivable (low quality) and then providing the user the alternative (analog version) of the desired program.

Regarding claims 4, 8 and 12,

However, neither Yamamoto, AAPA nor Moon disclose judging if the analog program is available by comparing signal waveforms of the received digital and analog received channels.

As stated above in the rejection, currently broadcasters transmit analog signals which might also include digital signals. Yamamoto and Moon both disclose the preferred selection of a digital signal if receivable and reception is excellent as opposed to the traditional analog version.

It is also conventional to compare signal waveforms of the received program to determine what type of signal is being received.

Thus, the examiner takes "OFFICIAL NOTICE" regarding channel map information stored in a TV.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Yamamoto and Moon which disclose the disclose the preferred selection of a digital signal if receivable and reception is excellent as opposed to the traditional analog version, by judging whether an analog version is available by comparing signal waveforms of the received program, in the event the digital signal was unreceivable (low quality) and then providing the user the alternative (analog version) of the desired program.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, please refer to newly cited references on attached PTO-Form 892.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (703) 305-9871. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John W. Miller, can be reached at (703)305-4795.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

General information about patents, trademarks, products and services offered by the United States Patent and Trademark Office (USPTO), and other related information is available by contacting the USPTO's General Information Services Division at:

800-PTO-9199 or 703-308-HELP

(FAX) 703-305-7786

(TDD) 703-305-7785

An automated message system is available 7 days a week, 24 hours a day providing informational responses to frequently asked questions and the ability to order certain documents. Customer service representatives are available to answer questions, send materials or connect customers with other offices of the USPTO from 8:30 a.m. - 8:00p.m. EST/EDT, Monday-Friday excluding federal holidays.

For other technical patent information needs, the Patent Assistance Center can be reached through customer service representatives at the above numbers, Monday through Friday (except federal holidays) from 8:30 a.m. to 5:00 p.m. EST/EDT.

General information brochures can also be obtained in person from the Patent Search Room located in Crystal Plaza 3, Room 1A03, 2021 South Clark Place, Arlington, VA 22202.

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BRIAN P. YENKE
Primary Examiner
Art Unit 2614

B.P.Y
28 July 2004